

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION, CINCINNATI

4 EVERETT W. WHISMAN, et al.: Case No. C-1-02-406
5 Plaintiffs, : Judge Beckwith
6 V. : Magistrate Sherman
7 ZF BATAVIA, LLC, et al., :
8 Defendants. :
9

10 Deposition of RANDALL NEWSOME, taken on
11 Thursday, August 21, 2003, commencing at 10:55
12 a.m., at the offices of Baker & Hostetler LLP, 312
13 Walnut Street, Suite 3200, Cincinnati, Ohio, before
14 Susan M. Barhorst, Notary Public.

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14 Cross-Examination

15 by Mr. Hunter 4, 76
16 by Mr. VanWay 48

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1	NEWSOME DEPOSITION EXHIBITS	MARKED/IDENTIFIED
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1 RANDALL NEWSOME

2 being first duly sworn, testified as follows:

3 CROSS-EXAMINATION

4 BY MR. HUNTER:

5 Q. Sir, would you please state your name
6 for the record?

7 A. Randall Newsome.

8 Q. And your current address, Mr. Newsome?

9 A. 1136 Stewarton Avenue -- or Street --
10 or Drive -- 1136 Stewarton Drive, Amelia, Ohio
11 45102.

12 Q. Mr. Newsome, you got here a little
13 late -- not actually late, after we started Ms.
14 Parker's deposition this morning, I believe?

15 A. Mm-hmm.

16 Q. Have you ever had your deposition
17 taken before?

18 A. No.

19 Q. Okay. I want to talk a little bit
20 about kind of the ground rules. And I understand
21 you saw part of Ms. Parker's, but in terms of the
22 format today, it's really going to be kind of a
23 question and answer format.

24 I'm going to ask you questions about

1 litigation that you have brought against the
2 company. Hopefully I will do so in a clear manner
3 and loud enough that you can hear me.

4 If at any point you don't hear what
5 I've said, you don't understand what I've said, or
6 for whatever reason, you just can't fairly answer
7 my question, I want you to let me know that, okay?

8 A. Okay.

9 Q. Is there anything today that would
10 prevent you from being able to go forward with your
11 deposition, in terms of a personal issue, a medical
12 issue or anything like that?

13 A. No.

14 Q. If I use the term "transitional
15 employee," what does that term mean to you?

16 A. "Transitional" means I transitioned --
17 I was a Ford Motor Company employee and I
18 transitioned to ZF Batavia.

19 Q. Okay. And are you a Ford transition
20 employee?

21 A. Yes.

22 Q. Okay. Prior to coming over to ZF
23 Batavia, how long had you been with Ford?

24 A. 23 years, I believe three months, two

1 months, something like that.

2 Q. Okay. Do you remember what you hired
3 into Ford as?

4 A. I was an hourly person hired in as a
5 final inspector.

6 Q. Were you covered under the collective
7 bargaining agreement then at that point?

8 A. Yes.

9 Q. Do you remember what position you
10 moved to next?

11 A. Next, I believe I was a general
12 inspector.

13 Q. And was that still hourly?

14 A. Yes.

15 Q. Okay. And after that?

16 A. After that, then I believe it was a
17 floor final inspector.

18 Q. Okay. And that still would have been
19 an hourly position?

20 A. Yes.

21 Q. Okay. And after that one?

22 A. After that, I believe the next
23 position would have been -- there was periods of
24 being laid off and stuff in there, too. So when I

1 was called back, there was some -- you know, just
2 TSR's I think is what they called them, just a
3 temporary person. But my last position was a -- as
4 an hourly was a -- I guess now is what they would
5 call a manufacturing tech, I guess.

6 Q. Okay. At some point in time, then,
7 apparently after the manufacturing tech position,
8 you became salaried?

9 A. Yes.

10 Q. What was your first salaried position?

11 A. Line supervisor on the case line in
12 the valve biting machining area.

13 Q. Now, approximately what year was that?

14 A. I believe that was April of 1990.

15 Q. Of '91?

16 A. '90.

17 Q. '90? Was that over at Batavia or
18 Sharonville?

19 A. Batavia.

20 Q. Are you one of those guys that was in
21 Batavia when they opened the doors?

22 A. Yes.

23 Q. Okay.

24 A. I actually started at -- at

1 Sharonville --

2 Q. Okay.

3 A. -- in '76, June '76.

4 Q. And Batavia opened in --

5 A. And I went from Sharonville, I left
6 there in '79 and came to Batavia in 1980, June or
7 July of 1980.

8 Q. Okay. And that would have been when
9 you were an hourly --

10 A. Yes.

11 Q. -- under the collective bargaining --

12 A. Yes.

13 Q. -- agreement? All right. The line
14 supervisor was your first salaried position. Do
15 you remember where you next moved to?

16 A. Next moved to a -- I believe was a
17 group leader's position of a work team of
18 department 230.

19 Q. What's 230? Which one is that?

20 A. It was department 230. It was small
21 aluminum --

22 Q. Oh, okay.

23 A. -- machining area.

24 Q. And how many people did you supervise

1 at that point?

2 A. I don't remember the exact numbers,
3 10, 12, something --

4 Q. Okay.

5 A. -- like that.

6 Q. How long did you hold the position of
7 group leader?

8 A. That position, approximately eight,
9 nine months, I believe.

10 Q. Okay. Then where did you move to?

11 A. Then, from that position, I moved to
12 group leader in the new CD4E area. Took over the
13 clutch machining and assembly area.

14 Q. Okay. And after that?

15 A. After that, I moved to maintenance
16 expeditor.

17 Q. Did you continue to manage people at
18 that position?

19 A. No.

20 Q. What were your responsibilities as a
21 maintenance expeditor?

22 A. I purchased repair machine parts for
23 machines that were broken down. That was the main
24 function of that job.

1 Q. Okay. And that sounds like that was
2 your first foray into the maintenance department?

3 A. Yes.

4 Q. Okay. Have you been in maintenance
5 since that time?

6 A. No.

7 Q. Okay. All right. Let's go through
8 here. All right. So you were a maintenance
9 expeditor. Where did you move to next?

10 A. From maintenance, then I went into
11 material control --

12 Q. Okay.

13 A. -- and this was with -- when I --
14 after I transitioned to ZF Batavia.

15 Q. Oh, okay. Well, let's -- yeah, let's
16 stick with your Ford tenure.

17 A. Okay.

18 Q. All right. So prior to coming on to
19 Batavia, just prior, apparently you would have
20 been, then, the maintenance expeditor?

21 A. Yes.

22 Q. All right.

23 A. And when I -- and then when I went
24 into -- when I came on to ZF Batavia, I was also a

1 maintenance expeditor.

2 Q. Okay. Well, that's what I thought.

3 A. Yeah.

4 Q. And now --

5 A. Yeah.

6 Q. -- since you been at Batavia, you're
7 now in material control?

8 A. I was and now I'm into a different
9 position.

10 Q. Okay. And what's that?

11 A. I'm now in the admin -- admin
12 engineering group. I handle the billing materials
13 and manage the change for the plant.

14 Q. And what do those responsibilities
15 entail?

16 A. Those entail taking the design bill of
17 the transmissions and putting them into a
18 manufacturing bill so that the floor knows all the
19 components that go into the transmissions. And I
20 have the responsibility of the CD4E, the U204s and
21 also the new CVT transmissions that's coming
22 online.

23 The manage -- the change portion of it
24 is -- is managing those changes on the floor from

1 starting the changes and making sure that those
2 changes happen on a timely basis.

3 Q. And when you say about "change," are
4 you talking about design changes --

5 A. Yes.

6 Q. -- or application --

7 A. Design changes to the transmission.

8 Q. Okay.

9 A. They may change a seal or may change
10 the design of a piston or whatever, making sure
11 that those designs are incorporated when they're
12 supposed to be.

13 Q. Okay. How long have you been in the
14 administrative engineering, just roughly?

15 A. Approximately -- I believe about a
16 little over two years.

17 Q. Okay. With respect to the litigation
18 that has been brought, it's my understanding that
19 there's a list or array of issues that -- that
20 exist, in terms of promises or representations that
21 the Ford transitionals feel were made to them that
22 ZF Batavia has not followed through on.

23 A. Yes.

24 Q. Can you kind of give me that laundry

1 list of concerns from your point of view?

2 A. One is overtime.

3 Q. Okay.

4 A. The vacation pay -- or vacation. The
5 AIPs. The mind has gone blank.

6 Q. It's not really a quiz. If you think
7 of them later, we can talk about them and they may
8 come to you.

9 A. Bereavement was one. I can't
10 remember.

11 Q. Okay.

12 A. I know there was several of them, but
13 I just can't remember at this time.

14 Q. Oh, sure. And that's all right. If
15 you think of them as we discuss them -- I suspect
16 that may happen -- just let me know --

17 A. Okay.

18 Q. -- okay? Overtime, let's talk about
19 your concerns with respect to overtime. What are
20 your concerns or issues with respect to overtime?

21 A. With the overtime was -- was that if
22 we weren't -- we had to work 10 hours to be paid
23 for one hour overtime.

24 Q. Okay.

1 A. But it was -- it was like we were
2 mandatorily saying we had to give one hour to the
3 company. Now, when we were at Ford, if we worked
4 an hour over, we were paid that hour.

5 Q. And this may sound like a silly
6 question, but what if you worked 59 minutes over,
7 were you paid for that?

8 A. No.

9 Q. And that's what many others have told
10 me is that in one sense, what we seem to be talking
11 about here is a minute difference. Is that your
12 understanding?

13 A. Yes.

14 Q. Okay.

15 A. I mean, there was a lot of times
16 that -- you know, with Ford, that I may have worked
17 an hour, hour and a half that was never put on the
18 timecard, but that was my choice.

19 Q. Is that what I've heard referred to as
20 casual time?

21 A. Yes.

22 Q. Did you have an understanding at Ford,
23 in terms of Ford's expectations regarding casual
24 time?

1 A. Yes. When I went into supervision,
2 casual -- it was expected that you come in anywhere
3 from a half hour to 15 minutes before your shift
4 and usually 15 minutes to a half hour after your
5 shift to -- to get lined up, if there was any
6 problems before the shift, to make contact with the
7 supervisor. And then if you were followed by a
8 supervisor, to make sure that you lined up the
9 supervisor following you.

10 Q. Okay. And that supervisor, you're
11 saying over a half hour, that supervisor would be
12 in a half hour early and you'd do the hand off, or
13 whatever you want to call that?

14 A. Exactly, yeah.

15 Q. Any other issues with respect to
16 overtime?

17 A. No.

18 Q. Okay. Now, with respect to your
19 understanding or what you thought you were going --
20 how you were going to be treated for overtime,
21 where did you develop your understanding, in terms
22 of what you thought you were going to receive when
23 you came over to ZF Batavia?

24 A. On the -- on our brochure, the

1 brochure says we would be paid for our overtime and
2 that was in our -- in the meetings, they said we
3 would be paid for our overtime, just like we would
4 be if we were still with Ford.

5 Q. I want to talk about briefly, you were
6 in material control for awhile, correct?

7 A. Yes.

8 Q. I've heard about some folks in
9 maintenance and then Ms. Parker told me just a
10 minute ago that material control, there was some
11 people that didn't get paid maybe three weekends in
12 April of 2002 for overtime worked.

13 A. Yes.

14 Q. Are you one of those people?

15 A. No.

16 Q. Okay. Do you know anything about the
17 people that that might apply to?

18 A. I know some of them, yes.

19 Q. Who was that that didn't get paid?

20 A. It was mostly -- it was the
21 maintenance supervisors.

22 Q. Okay. I've heard Wayne Whisman and
23 Jim Crump, but I'm not aware of anybody else.
24 Other than those two individuals, do you have

1 personal knowledge of -- as to anybody else?

2 MR. SIMON: Objection.

3 Mischaracterizes the record. Perhaps you're

4 forgetting some people, but go ahead.

5 A. I -- truthfully, I don't know.

6 Q. Okay.

7 A. I don't know. I don't know. I don't

8 know exactly who didn't get paid. I just know

9 there was some maintenance supervisors.

10 Q. Okay. But you've been paid, but for

11 the hour difference --

12 A. Yes.

13 Q. -- apparently?

14 A. Yes.

15 Q. Okay. And, again, aside from what

16 we've talked about already with overtime, you

17 otherwise feel that you're getting what you were

18 supposed to get with respect to overtime?

19 A. Rephrase that.

20 Q. Other than what we've talked about so

21 far, the one hour difference, okay?

22 A. Mm-hmm.

23 Q. Is it your position that ZF Batavia is

24 living up to whatever commitments it made to you

1 with respect to overtime?

2 A. Yes.

3 Q. The next item you mentioned was
4 vacation. What are the concerns or issues on
5 vacation?

6 A. Okay. When we first transitioned
7 over, we were able to purchase the five days, extra
8 five days, if we wanted to.

9 Q. Okay.

10 A. Since then, that has been removed.

11 Q. Now, are you one of the employees that
12 has five weeks or do you have four weeks?

13 A. I have five weeks.

14 Q. Okay. Any other issues on vacation?

15 A. No.

16 Q. You next mentioned AIP.

17 A. Yeah.

18 Q. Okay. What's the issue on the AIP?

19 A. Well, the AIP was -- I've heard that
20 they were paying the ZF people a different
21 percentage than what they were paying the Ford
22 transitional personnel.

23 Q. Do you know what the --

24 A. I don't know what the percentages were

1 or what the differences were. I've heard that
2 that's what the difference -- that there was
3 differences, at least -- in my opinion, with -- at
4 least with Ford, when a bonus was paid, everybody
5 got the same amount.

6 Q. Well, they didn't --

7 A. I mean, they got the same percentage.

8 Q. Okay.

9 A. Same percentage. Not the same amount,
10 but the same percentage.

11 Q. Okay.

12 A. And from what I've heard is the reason
13 that -- that -- that one person -- or the ZF are
14 getting more of a percentage and we're getting a
15 less of a percentage is -- is because we make too
16 much money. It's to offset -- to bring them up, I
17 guess, to more comparable to what we're making.

18 Q. Well, have you heard anything, in
19 terms of the company trying to equalize essentially
20 the real dollars realized?

21 A. Rephrase that.

22 Q. Well, if -- would you acknowledge that
23 the Ford transitionals' salaries are generally
24 higher than the ZF employees -- new hires, I guess,

1 is the better term, salaries?

2 A. At which level?

3 Q. At any level.

4 A. Not what I've heard.

5 Q. Okay. So you don't have an
6 understanding, then?

7 A. No.

8 Q. Would you say that it is inappropriate
9 for ZF Batavia to want to pay people an equal-
10 dollar bonus for the same job?

11 A. Say that again.

12 Q. Well --

13 A. I don't know if I'm --

14 Q. Yeah.

15 A. -- quite following you here.

16 Q. Yeah. Let's strike that. Let's --
17 all right.

18 With respect to AIP, any other
19 concerns?

20 A. No.

21 Q. In terms of -- strike that.

22 Bereavement was the next issue that
23 you had listed. What's your concerns on
24 bereavement?

1 A. Well, with bereavement, we had three
2 days of bereavement with Ford.

3 Q. Okay.

4 A. And now I understand it's only one day
5 with bereavement and I believe we had -- with Ford,
6 we had a much broader range of -- of people that we
7 could or -- maybe aunts, or maybe -- I don't know.
8 It was aunts, uncles. You know, person that passed
9 on, that we could take the three days.

10 Now it's much more strict or limited
11 to who you get those days with. I'm not really
12 sure what the policy is now. But I'm sure -- I
13 know it's one day for some, but I know there's some
14 that's only had been able to take one day. And --
15 and when we transitioned over, it said we would not
16 lose any of our current -- I guess benefits that we
17 had with Ford.

18 Q. Okay. And did you consider
19 bereavement a benefit?

20 A. "Benefit" is not the word. I don't
21 know --

22 Q. Okay.

23 A. -- or maybe it is. I don't know what
24 other word to use, but any of the items that we had

1 with Ford, we would not lose.

2 Q. Okay. Let's talk a little bit
3 about -- you made reference, I think, to meetings
4 and whatnot. You apparently went to one or more
5 meetings regarding the transition over to ZF
6 Batavia?

7 A. Yes.

8 Q. How many meetings did you personally
9 go to?

10 A. I can remember two.

11 Q. Okay. Do you remember the month,
12 maybe of those meetings or months, I should say, I
13 suppose?

14 A. I don't know. I know one was this --
15 was this one, the May 27th meeting --

16 Q. Do you remember, did you go to the
17 morning or afternoon session?

18 A. I believe it was the morning session.

19 Q. Okay. Any other meeting?

20 A. And then there was another one about
21 the northern -- there was another one about the --
22 the 401K.

23 Q. Was that -- do you remember, was that
24 before or after the May 27th meeting?

1 A. I believe it was after, but I'm not --
2 I'm not sure.

3 Q. With the May 27th meeting, do you
4 remember who was in attendance?

5 A. There was several people. I know Karl
6 Kehr was there and Dave Adams. Several people from
7 Ford.

8 Q. Anybody else?

9 A. Tony DeShaw I know was there. That's
10 the only ones I can --

11 Q. Okay.

12 A. -- recall their names. I know there
13 was -- there was others there, but I don't recall
14 their names.

15 Q. Okay. Do you remember anything in
16 particular that Karl said at the meeting?

17 A. I think he just more or less presented
18 the -- what was in this, this Exhibit 4, that page.

19 Q. And Exhibit 4, now that wasn't handed
20 out at the meeting, was it?

21 A. No.

22 Q. Okay. I think they had some slides
23 and --

24 A. Yeah, they had some slides and pretty

1 much Mark Bugajski was there as well 'cause he did
2 some presentation. I remember that, too. And they
3 just more or less presented this stuff to us.

4 Q. Do you remember, did the discussion
5 pretty much follow the slide presentation that was
6 being made?

7 A. I believe it did.

8 Q. Do you remember any inconsistencies
9 between what essentially was being told to you and
10 what was being presented on the slide?

11 A. I don't recall there being --

12 Q. At the time you went to the meeting on
13 May 27th, had you made up your mind as to whether
14 or not you were going to join Batavia --

15 A. No.

16 Q. -- ZF Batavia?

17 A. No.

18 Q. The way you answer that, is it safe to
19 say you had not intended to join ZF Batavia at that
20 point?

21 A. No.

22 Q. Oh, okay.

23 A. I just hadn't made up my mind.

24 Q. All right. After the meeting, had you

1 made up your mind?

2 A. No.

3 Q. What were the open issues for you at
4 that point in time? And I'm talking about after
5 the meeting.

6 A. The biggest concern was retirement.

7 Q. And what we've discussed so far today,
8 you've not indicated that ZF Batavia has not lived
9 up to you -- with respect to your expectations for
10 retirement. Is that still the case? I said
11 that --

12 A. Say that again.

13 Q. -- very poorly, yeah. Has ZF Batavia
14 lived up to its -- to your expectations with
15 respect to retirement?

16 A. Well, I guess I would have to say yes.

17 Q. Okay. Retirement, you indicated, was
18 a concern even after the meeting. What was your
19 concerns, if you can tell me that?

20 A. Well, my biggest concern was how was
21 it going to be handled once I got to the point of
22 retirement. Who was going to pay what and how
23 would the 40 -- 401 was going to work with ZF
24 'cause I know they didn't have a retirement plan,

1 but we had the 401K and how was that going to
2 supplement and -- with the Ford.

3 Q. Okay. Was there anything else that
4 was of concern to you at that point?

5 A. And the other -- the other thing was
6 also the -- that we didn't lose any of the benefits
7 that we currently enjoyed.

8 Q. Well, would it be safe to say that you
9 weren't convinced at the meeting about what you
10 were going to receive at ZF Batavia?

11 A. Yes.

12 Q. Okay. Obviously at some point in
13 time, you joined ZF Batavia?

14 A. Yeah.

15 Q. After the meeting on the 27th, and --
16 did you do other investigation? Did you go to
17 another meeting? Did -- what else did you do,
18 then, to try and make this decision?

19 A. Well, after that, there was another --
20 there was another meeting with the -- I believe
21 with the Fidelity group. They had another meeting
22 explaining the 401K and that, how that would work.
23 And I think possibly I -- if I remember correctly,
24 right after the morning session, there was also

1 some sub-meetings with -- about the medical
2 benefits and the other things there, too.

3 Q. Did you go to those sub-meetings?

4 A. I'm sure I did.

5 Q. Do you remember what was discussed at
6 those sub-meetings?

7 A. I -- I believe they just -- it was
8 mostly giving information out for you to review.

9 Q. The gray brochure, Exhibit Number 2,
10 you didn't have that as of May 27th, did you?

11 A. I don't recall having it, no.

12 Q. Okay. And you wouldn't have gotten
13 that at any of the sub-meetings or anything like
14 that?

15 A. No.

16 Q. As a result of the sub-meetings, you
17 had still not made up your mind to come over to ZF
18 Batavia, though?

19 A. No.

20 Q. All right. After the sub-meetings and
21 before you signed on, did you do anything else, in
22 terms of investigation or trying to decide that --
23 you know, am I going to make the jump or not?

24 A. Nothing, other than just taking the

1 data that I had been -- had been given and reading
2 it and seeing --

3 Q. Did you have discussions with other
4 Ford transitional folks?

5 A. Well, Hassan talked to me --

6 Q. Okay.

7 A. -- several times as well. In fact, he
8 spoke to me even before, actually quite -- after
9 the joint venture was announced, back in like
10 October of '98 --

11 Q. Okay.

12 A. -- if I would be interested in -- in
13 coming over to the -- ZF was my first contact
14 with -- with it. And I said, Well, I'd be open to
15 the idea.

16 Q. Okay. Now, Hassan, certainly in
17 October of '98 was still a Ford person at that
18 point?

19 A. Yes.

20 Q. Do you know when he made the jump over
21 to ZF Batavia?

22 A. I'm not sure.

23 Q. All right. And, again, even as late
24 as apparently the end of May, though, you'd been in

1 discussions with Hassan and still you were not sure
2 what you were going to do?

3 A. Right.

4 Q. Is there some event or occurrence that
5 helped you make the decision?

6 A. No, not really.

7 Q. Can you tell me why you made the
8 decision, then, after the 27th?

9 A. I guess at the time, I just felt like
10 it was the best thing for me to do.

11 Q. Okay. Mr. Newsome, you've been handed
12 Exhibit 119. If you could, take a moment to go
13 through that. Okay. Have you seen Exhibit 119
14 before?

15 A. Yes.

16 Q. And is that your signature down there
17 at the bottom left?

18 A. Yes.

19 Q. And this is the offer -- hire letter
20 that you signed to come over to ZF Batavia?

21 A. Yes.

22 Q. And I see that was signed by John
23 Zielke. Is John the one that presented you the
24 offer, if you remember?

1 A. No, he's not.

2 Q. Was it Hassan or who --

3 A. Hassan.

4 Q. Okay. Do you remember, did Hassan
5 come out to the floor with the offer? Did he call
6 you up front or how did you receive -- physically
7 receive that offer?

8 A. He came out on the floor.

9 Q. Okay. Did you know that Hassan was
10 going to bring you this offer?

11 A. No --

12 Q. Okay.

13 A. -- not until he brought it out to me.

14 Q. So while you apparently had some
15 discussions with him, apparently you didn't have a
16 discussion regarding Exhibit 119?

17 A. No.

18 Q. Do you remember what date he brought
19 that to you on?

20 A. No.

21 Q. I see it was signed on June 21st of
22 1999. Was that the date that he brought it to you?

23 A. I don't remember.

24 Q. All right. He brought it to you out

1 on the floor. Do you remember anything about the
2 meeting or discussion -- I'm sorry. -- at that
3 time?

4 A. No, I really don't.

5 Q. Okay.

6 A. I -- I don't remember if I signed it
7 then or if I held on to it for a few days or -- to
8 make up my mind or not.

9 Q. Okay. Did Hassan hand you anything
10 else when he handed you the offer?

11 A. I believe this, Exhibit 2 was
12 attached, the summary.

13 Q. Do you remember, was it stapled or
14 clipped or --

15 A. I believe it was just paperclipped, I
16 think.

17 Q. Okay. Do you remember anything that
18 Hassan might have said to you at that point in
19 time?

20 A. I think -- I believe -- I don't really
21 remember everything. He just sort of skimmed over
22 it and told me that -- what position I would have,
23 what my monthly salary would be, that there would
24 be a signing bonus and a bonus.

1 Q. Do you remember, did you review
2 Exhibit 2, the gray brochure, at that time?

3 A. I don't believe we did.

4 Q. Okay. Do you remember after Mr. Saleh
5 had given you the offer letter, and I think you've
6 testified the gray brochure, did you review the
7 gray brochure after that?

8 A. Yes, I did.

9 Q. Okay. After you received the offer
10 letter, did you have any other discussions with
11 anyone from ZF Batavia or Ford regarding your
12 decision to accept the employment?

13 A. With anyone?

14 Q. Mm-hmm. Well, you might have
15 discussed it with your wife, I suppose, but anybody
16 from ZF Batavia or Ford.

17 A. I don't believe I did.

18 Q. Okay. Didn't have any further
19 discussions with Mr. Saleh?

20 A. No, I don't think I did.

21 Q. Okay. I would gather that as of then,
22 whatever date you received the offer letter, you
23 still apparently had not made up your mind to join
24 ZF Batavia?

1 A. No.

2 Q. And, again, is there anything that you
3 can point to that -- you know, sometime between
4 when you received the offer letter and when you
5 decided that said, Okay. This event occurred or
6 I've learned this or whatever, that I'm going to
7 make the jump?

8 A. No, I really can't.

9 Q. Okay. In the gray brochure, if you
10 can pull up Exhibit 2 for me. Do you remember
11 reading this in any detail whatsoever?

12 A. I'm sure I did.

13 Q. Okay. I direct your attention to
14 what's the second page of Exhibit 2. Down on the
15 right-hand side, do you see the -- towards the
16 bottom, the two kind of thicker black lines? Do
17 you see that section?

18 A. Yeah.

19 Q. Do you remember reading that section?

20 A. No.

21 Q. Okay. Could you have read it or -- I
22 mean, you just don't remember or --

23 A. I --

24 MR. SIMON: Objection, asked and

1 answered. Go ahead.

2 A. Don't remember.

3 Q. Okay. Do you remember reading any
4 other sections out of this thing, Exhibit 2?

5 A. Oh, I do remember reading about
6 medical, the salary, the vacation, life insurance,
7 401.

8 Q. But no recollection of reading the
9 language --

10 A. No.

11 Q. -- at the bottom right on page 2?

12 A. No, no.

13 Q. Ultimately then on June 21st, you
14 signed Exhibit 119?

15 A. Yes.

16 Q. Okay. Mr. Newsome, you've been handed
17 Exhibit Number 120. If you would, take a moment to
18 review that document for me. You've had a chance
19 to review Exhibit 120?

20 A. Yes.

21 Q. And on the second page of Exhibit 120,
22 it appears to have your signature there in three
23 different places?

24 A. Yes.

1 Q. Did you review this document before
2 you signed it? Did you sign the document?

3 A. Yes.

4 Q. Okay. Did you review the document
5 before you signed it?

6 A. Yes.

7 Q. Okay. Do you receive a base salary at
8 ZF Batavia?

9 A. Yes.

10 Q. Have you always received that base
11 salary? Not the same base salary, but you've
12 always been -- you've always received your pay, in
13 terms of your base salary pay?

14 A. Since I've been salaried, yes.

15 Q. Okay. You've always been salaried at
16 ZF Batavia?

17 A. Yes.

18 Q. Okay. You've never had any deductions
19 from your base salary or anything like that?

20 A. What do you mean, "deductions"? Well,
21 there's --

22 Q. Anything less than -- have you ever
23 been paid anything less than your full, base
24 salary?

1 A. I'm not sure I understand.

2 Q. Okay. You get paid a salary, correct?

3 A. Yes.

4 Q. And you get paid overtime?

5 A. (Witness nodded.)

6 Q. And I understand there's a -- you have
7 to say out loud the answers so the court reporter
8 can take it down.

9 You've always received a base salary?

10 A. Yes.

11 Q. Overtime, I understand there's an
12 issue?

13 A. Yes.

14 Q. Okay. In the answers to
15 interrogatories that you gave, you indicated an
16 amount of, I believe, \$6,700? Hang on. \$6,370.
17 All right. Can you tell me what that number -- how
18 did you arrive up to that number?

19 A. The bulk of it is overtime. Two days
20 was sick days that was taken back.

21 Q. Did you actually miss or have to use
22 vacation time or something to cover sick days?

23 A. No. I was actually on -- on sick days
24 that I put down on my timecards and then with -- at

1 the end of the year, those two days were deducted
2 from my pay.

3 Q. Okay. Is there anything else that
4 makes up that \$6,370?

5 A. I don't believe there is. I -- just
6 overtime, the overtime and the sick days.

7 Q. Okay. My understanding is that the --
8 well, a number of people have said that there was a
9 change in the overtime policy, that at some point
10 in time, Len Sennish sent out a memo that said
11 basically you've got to work 10 hours to get paid
12 for nine. Does that sound accurate?

13 A. Yes.

14 Q. And do you remember that memo?

15 A. Yeah.

16 Q. Would you agree with me that prior to
17 the issuance of that memo, that you were paid what
18 you thought or what you expected you were going to
19 be paid when you came over to the joint venture?

20 A. Rephrase that.

21 Q. Sure. The memo from Len Sennish, did
22 you consider that a change in policy at ZF Batavia?

23 A. Do I consider it a change of policy?

24 Q. Mm-hmm.

1 A. I would consider it a -- it was a
2 change to what I -- what I was promised when I came
3 over.

4 Q. Okay. It was -- it was -- all right.
5 Let's call it -- it was a change?

6 A. Yes.

7 Q. Okay. And all I'm asking is, prior to
8 the issuance of that memo that I'm fervently
9 looking for here, do you feel that ZF Batavia had
10 lived up to your expectations with respect to the
11 payment of overtime?

12 A. Prior to that?

13 Q. Mm-hmm.

14 A. Yes.

15 Q. Okay. And that subsequent to the
16 issuance of that memo by Mr. Sennish, the issue
17 relates to, again, the one hour of casual overtime
18 every day requirement?

19 A. Say that --

20 Q. Okay.

21 A. Restate that.

22 Q. Well, let's try it this way. What was
23 your understanding or how did you feel that the
24 policy or term or whatever you want to call it had

1 changed as a result of the Sennish memo?

2 A. I'm not sure that I'm --

3 Q. Okay.

4 A. -- following you.

5 Q. You remember the Sennish memo?

6 A. Yes, I --

7 Q. Okay. What was the change as a result
8 of that memo?

9 A. To me, it meant that he was requiring
10 us to work nine hours and only be paid for eight,
11 which didn't mean that that ninth hour was -- was
12 any longer -- to me, was casual time. It was
13 required. And, to me, if you're going to require
14 me to work that ninth hour, then you're going to
15 pay me for that ninth hour.

16 Q. With respect to your practice prior to
17 that change, had you generally worked pretty close
18 to nine hours anyhow?

19 A. Yes.

20 Q. So is it fair to say that the issue
21 here really is that you just, in a sense, didn't
22 like being told you were going to work nine hours?

23 A. Probably.

24 Q. Okay. Because practically, it sounds

1 like it didn't make a great deal of difference, in
2 terms of your practices or pay?

3 MR. SIMON: Objection.

4 Mischaracterizes his testimony. Go ahead and
5 answer.

6 A. I mean, when we were -- when I was on
7 salary with Ford, we always did put in casual time,
8 but that was -- you know, our choice. But when
9 they -- when you get a letter that comes out and
10 says you are required and you must and you have to
11 do this, then, to me, that's telling me that you
12 have to work these nine hours. That's putting you
13 on a nine-hour schedule. And I think you should be
14 compensated for that ninth hour.

15 Q. Okay. All right. With respect to --

16 A. And there's always with being -- you
17 know, and then there's always casual time over the
18 ninth hour.

19 Q. Well, was it your understanding that
20 the ninth -- nine hours could not or would not
21 include casual time?

22 A. I'm not really sure what it would or
23 wouldn't include.

24 Q. Okay. With respect to overtime, any

1 other issues that we haven't already discussed, in
2 terms of, again, shortcomings on the part of ZF
3 Batavia?

4 A. I don't think so.

5 Q. Okay. With respect to your AIP
6 payment and the two percent that you mentioned
7 earlier, is that two percent or percentage
8 difference reflected in your \$6,370 number?

9 A. Yes, I believe it is.

10 Q. Okay. Now, Ms. Parker told me, for
11 example, that she was satisfied with what she had
12 received and that Batavia had lived up to its
13 obligations to her with respect to merit. Do you
14 feel the same way? Merit -- I should say merit
15 increases. Do you feel the same way?

16 A. Yes, I -- I think so.

17 Q. Okay. And I guess we should go back
18 to this. With respect to your timekeeping, you
19 fill out a salaried time statement?

20 A. Yes.

21 Q. All right. How do you report your
22 hours, in terms of on that time statement?

23 A. What are you --

24 Q. Well, does it -- if I looked at your

1 salaried time statement, would that reflect
2 basically the time that you walked into the plant
3 or is it something other than that?

4 A. Normally the start time is when I
5 usually sit down at my computer and start and when
6 I turn it off at the end of the day.

7 Q. From what I gather, you currently
8 spend a lot time, then, at the computer --

9 A. Yes.

10 Q. -- as opposed to out on the production
11 floor?

12 A. Yes. In my current position, yes,
13 it's all at the computer.

14 Q. Okay.

15 A. Or at least 90 percent of it.

16 Q. Okay. The -- are there any other
17 entries on there that reflect -- that would be
18 reflected on your time statement, in terms of
19 marking out for lunch or anything like that?

20 A. No.

21 Q. Does the salary time statement in any
22 way reflect any casual time?

23 A. No.

24 Q. And I guess I want to clarify. Prior

1 to the Sennish memo that we talked about before
2 that kind of -- that's called the change, would
3 your time statements, salary statement reflect any
4 amount of casual time?

5 A. No.

6 Q. You're familiar with the Honeywell
7 readers, the card readers to swipe in and out of
8 the plant?

9 A. Yeah.

10 Q. You understand that those were put in
11 there because of the foreign trade zone
12 requirement?

13 A. Yes.

14 Q. Has anyone ever challenged you with
15 respect to your salaried time statements and the
16 times reflected on the Honeywell readers?

17 A. No.

18 Q. Are you aware of any employees that
19 have ever been questioned or challenged about that
20 issue?

21 A. I've heard of one.

22 Q. That would be Mr. O'Hagan?

23 A. Yes.

24 Q. Nobody to date has told me the

1 details. Do you have any details with --

2 A. No.

3 Q. -- respect to that? And who did you
4 hear about Mr. O'Hagan from?

5 A. I don't really recall who it was. I
6 just heard that.

7 Q. Do you remember at all what you heard?

8 A. Just that he was docked an hour.

9 Q. Other than Mr. O'Hagan, you've not
10 heard or not aware of --

11 A. No.

12 Q. -- certainly of anybody else that --

13 A. No.

14 Q. And it's certainly never happened to
15 you?

16 A. No.

17 Q. Do you have any reason to believe that
18 the company makes such a review of your timecard?

19 A. Yes, I believe they do.

20 Q. And what do you base that on?

21 A. I just believe they do. I don't know
22 why, but I just -- I just believe that they would.

23 Q. Well, that they would or that they do?

24 A. I -- I certainly believe that they

1 have the capability of doing it. Whether or not
2 they do, I don't know.

3 Q. Okay. Well, I think --

4 A. I can't -- I can't say that they do,
5 but I -- they certainly have the capability.

6 Q. Well, certainly the card reader
7 exists --

8 A. Yes.

9 Q. -- and so they could. But I
10 understand that they could, but do you think they
11 do?

12 A. I don't know.

13 Q. Okay.

14 MR. VANWAY: Can we go off the record
15 for just a second?

16 (Off the record: 11:52 a.m. - 11:53 a.m.)

17 Q. With respect, Mr. Newsome, to the
18 testimony that you've already given me this
19 morning, is there anything that you feel that is
20 unclear or needs to be changed?

21 A. Not at this time.

22 MR. SIMON: Okay. Let me interject.
23 You had asked him about the --

24 MR. HUNTER: Is this an objection

1 or --

2 MR. SIMON: Well, I'm putting it on
3 the record. 6,370 figure, which was in an
4 interrogatory answer, you asked him what that
5 encompassed. It says right on the interrogatory
6 answer it's part of the overtime. You had asked
7 him if the two days of sick leave was part of that.
8 I think he said he did, but the interrogatory
9 speaks for itself.

10 You didn't show Mr. Newsome the
11 interrogatory answer when you asked him about that,
12 so I'm putting it on the record.

13 MR. HUNTER: Okay.

14 MR. SIMON: All right.

15 MR. HUNTER: I guess we start back at
16 12:30.

17 (Off the record: 11:54 p.m. - 12:47 p.m.)

18 Q. All right. Mr. Newsome, we're back on
19 the record. Just a couple of follow-up questions.

20 We spoke this morning about the merit
21 increase and I think you had told me you were
22 satisfied that you received what you were supposed
23 to receive with respect to merit increases?

24 A. Yes.

1 Q. Okay. And is it your understanding
2 that merit increases are based upon at least, in
3 part, the individual job performance of that
4 employee that receives the merit increase?

5 A. Yes.

6 Q. And that was your understanding when
7 you entered into your employment with ZF Batavia?

8 A. Yes.

9 Q. Okay. Were there any other documents
10 that you relied on to make your decision to come
11 over to ZF Batavia, other than those documents that
12 we've already discussed?

13 A. No.

14 MR. SIMON: I'm not sure. We had a
15 break, John. I'm not sure what document we
16 discussed.

17 A. Other than the -- it was what the
18 Exhibit 2 and 4 and the other ones that I collected
19 on the -- on the benefits and the retirement.

20 Q. Okay. And I guess just to make sure,
21 we've talked about Exhibit Number 2, the gray
22 brochure; we've talked about your hire letters,
23 correct?

24 A. Yes.

1 Q. And then I think you made a reference
2 kind of to Exhibit 4, but I want to be clear. You
3 were never given a copy of Exhibit 4. I believe
4 those were just slides of at least some of the
5 pages?

6 A. Yes.

7 MR. HUNTER: I think at this point, I
8 have nothing further. Turn that over to
9 Mr. VanWay.

10 MR. SIMON: Off the record for a
11 second.

12 (Off the record: 1:49 p.m. - 1:50 p.m.)

13 EXAMINATION

14 BY MR. VANWAY:

15 Q. Afternoon, Mr. Newsome. My name's
16 Jeff VanWay. I represent Ford in this case. I
17 have a few questions for you today. Try not to
18 repeat the things that Mr. Hunter has already asked
19 you about.

20 And I believe you testified that when
21 you first started with Ford, you were part of the
22 UAW --

23 A. Yes.

24 Q. -- hourly employee? And then your

1 compensation and benefits, those were set according
2 to what was set in the collective bargaining
3 agreement, correct?

4 A. Yes.

5 Q. After you become a salaried employee
6 with Ford, collective bargaining agreement no
7 longer applied to you, right?

8 A. Correct.

9 Q. Did you have any contract at all after
10 you became a salaried employee?

11 A. I believe I did.

12 Q. Was it a written document?

13 A. It was salary application, yes.

14 Q. The application for employment that
15 you filled out?

16 A. Yes.

17 Q. And it didn't say anything about what
18 your salary was going to be, did it?

19 A. No, I don't believe it did.

20 Q. You believe it did?

21 A. I don't believe it did.

22 Q. Okay. Did it say anything about your
23 benefits, do you recall?

24 A. No.

1 Q. Okay. Did you have any sort of
2 written agreement with Ford as to what your
3 compensation and benefits were going to be as a
4 salaried employee?

5 A. I don't remember.

6 Q. Well, let me ask it this way. It's my
7 understanding that while you were a salaried
8 employee with Ford, your compensation and benefits
9 were set by Ford; is that correct? I mean, they
10 determined what your compensation and your benefits
11 were going to be?

12 A. Yes.

13 Q. And that was at their discretion,
14 correct? In other words, you didn't go to them and
15 tell them what your salary and benefits were going
16 to be, did you?

17 A. No.

18 Q. And you didn't sit down and bargain --

19 A. No.

20 Q. -- with them over your salary and
21 benefits --

22 A. No.

23 Q. -- right? They told you what it was
24 going to be and that's what it was, right?

1 A. Well, they -- I guess they give me
2 a -- I don't remember when I transitioned, but I'm
3 sure they give me an offer saying they were going
4 to pay me this much or whatever. And I either --
5 well, in this case, I accepted or would have
6 declined.

7 Q. Okay. And you accepted --

8 A. Yeah, yeah.

9 Q. -- and became a salaried employee?

10 A. Yes.

11 Q. And then from year to year, sometimes
12 your compensation or your benefits would change,
13 didn't they?

14 A. Yes.

15 Q. And when those changes would take
16 place, Ford did never ask you if that was okay, did
17 they? I mean, they just went ahead and made the
18 changes, right?

19 A. In later years, we had the opportunity
20 to choose the benefits when the -- with the flex
21 plan to choose our benefits.

22 Q. To choose which package --

23 A. Yes.

24 Q. -- of benefits you wanted?

1 A. Yes.

2 Q. You didn't have the option to choose
3 something outside of the package, right?

4 A. Right.

5 Q. Now, you received merit increases
6 while you were a salaried employee at Ford,
7 correct?

8 A. Yes.

9 Q. And the amount of those increases
10 varied from year to year, didn't they?

11 A. Yes.

12 Q. Were there ever any years where you
13 didn't receive a merit increase at all?

14 A. No.

15 Q. Profit sharing, did you receive profit
16 sharing at Ford?

17 A. Yes.

18 Q. And did the amount of profit sharing
19 vary from year to year as well?

20 A. Yes, it did.

21 Q. Were there years that there was no
22 profit sharing paid?

23 A. Yes.

24 Q. And you understood that the amount of

1 profit sharing you received was up to the company,
2 right?

3 A. Yes, it -- yes.

4 Q. And am I correct also that your health
5 insurance premiums, the amount you paid out of
6 pocket as a salaried employee, those changed from
7 year to year?

8 A. Health insurance?

9 Q. Let me back up. For your health
10 insurance as a salaried employee, did you pay a
11 portion of that or was it a hundred percent company
12 paid?

13 A. In the beginning, it was all company
14 paid. When we went to the flex program, depending
15 on the program that you selected, it could either
16 all be paid or you had to pay some out of pocket.
17 And you were given a -- you were reimbursed some
18 money for flex dollars. They call it flex dollars.
19 You were reimbursed some money to -- to help offset
20 some of that cost.

21 Q. Okay. And under your health
22 insurance, did the level of benefits change from
23 time to time, in terms of what was going to be
24 covered, for example?

1 A. As far as --

2 Q. Well, let me ask you it this way. My
3 understanding is that with some of the health
4 insurance plans, there were co-pays. You would pay
5 a certain amount when you would go to the doctor.
6 Did you have that type of health insurance plan at
7 Ford?

8 A. I didn't, no.

9 Q. Okay. Well, what -- what sort of
10 health insurance plan did you have as a salaried
11 employee once you made that -- once the flex plan
12 came into existence?

13 A. I had the John Hancock and Blue
14 Shield, Blue Cross-Blue Shield John Hancock
15 comprehensive plan, which paid for everything.

16 Q. Okay. And from the time that that was
17 first offered up until the time you resigned your
18 employment with Ford, were there ever any changes
19 made in that health insurance plan?

20 A. Yes. There was different providers --
21 I think different providers and things like that.

22 Q. Okay. And when those changes were
23 made, the company would make the change and then
24 tell you what it was, right?

1 A. Can you restate that?

2 Q. Sure. My question really is, they
3 didn't ask your approval before they'd make those
4 changes, right? I mean, they -- they just did it,
5 correct?

6 A. Correct.

7 Q. Okay. Back in the early eighties,
8 were you a salaried employee at that time?

9 A. No.

10 Q. Mr. Newsome, you have in front of you
11 Exhibit 121, which I'll submit to you is a document
12 that Ford produced in this case that came from your
13 personnel file with Ford, your salaried personnel
14 file. Let me ask you first, the bottom left of
15 this document, is that your signature there?

16 A. Yes.

17 Q. Okay. And do you have any reason to
18 dispute that this is a document you signed while
19 you were a salaried employee with Ford?

20 A. No.

21 Q. No, you have no reason to dispute
22 that?

23 A. No.

24 Q. Okay. Now, I believe that you

1 testified as you went through the different --
2 excuse me. -- the different promises,
3 representations that you said were made and not
4 fulfilled. One of those you said was overtime.
5 And I believe you said the issue with overtime was
6 this change and putting in basically what's been
7 called a nine-hour rule.

8 As you sit here today, are you aware
9 of Ford having any involvement in that decision to
10 change that rule?

11 A. No.

12 Q. Are you aware of anyone from Ford at
13 all having any involvement in that?

14 A. No.

15 Q. Anyone from Ford approving of that
16 decision?

17 A. No.

18 Q. As far as you know, that was ZF
19 Batavia representatives that made that change?

20 A. As far as I know.

21 Q. Okay. You also mentioned the change
22 in vacation, the change from where you're no longer
23 allowed to buy the extra week of vacation. Do you
24 have a sense of when that change took effect?

1 A. I believe it was in 2002.

2 Q. Okay. And prior to that, you were
3 allowed to buy the week of vacation --

4 A. Yes.

5 Q. -- just as you believed you'd be able
6 to do when you came over to ZF Batavia?

7 A. Yes, the first -- when I first
8 transitioned, you were allowed to buy extra week.

9 Q. Okay. And sometime in 2002, someone
10 from ZF Batavia said you can't do that anymore?

11 A. Someone.

12 Q. Well, do you know -- do you know who
13 made --

14 A. No, I don't know who, but someone.

15 Q. As you sit here today, do you have any
16 reason to believe that anyone from Ford was
17 involved in that policy change?

18 A. I -- no, I don't know.

19 Q. Any reason to believe that anyone from
20 Ford approved of that policy change?

21 A. I don't know.

22 Q. Okay. With respect to the AIP, I
23 believe you testified that the issue was on a
24 percentage basis, your AIP was less than some of

1 the new hires. As you sit here today, are you
2 aware of anyone from Ford being involved in the
3 decision to make that change?

4 A. No.

5 Q. Are you aware of anyone from Ford
6 approving of that decision?

7 A. No.

8 Q. Now, you also testified about the
9 change in bereavement leave. Has that change
10 affected you individually?

11 A. No, it hasn't.

12 Q. Okay. Do you know when that change
13 took effect?

14 A. No, I really don't.

15 Q. As you sit here today, do you have any
16 reason to believe that anyone from Ford was
17 involved in the decision to change the bereavement
18 leave policy?

19 A. No.

20 Q. Or that anyone from Ford approved of
21 that change that ZF Batavia made?

22 A. No.

23 MR. VANWAY: Do you have a copy of the
24 interrogatories that you could show Mr. Newsome?

1 MR. SIMON: Nope.

2 MR. VANWAY: All right. He can look
3 at mine.

4 Q. Mr. Newsome, I want to show you one of
5 your interrogatory responses here. It's response
6 to interrogatory number nine. Okay, great. That
7 will make this a little bit easier.

8 So that we're both looking off the
9 same page, Mr. Newsome, interrogatory nine starts
10 on page 5. Basically ask you to list the various
11 changes that you allege were made and then also who
12 made the change.

13 And then your response goes all the
14 way over to page 7. And if you see on page 7 where
15 there are several indented paragraphs and then
16 there's a big block paragraph that starts with,
17 Plaintiff asserts?

18 A. Yes.

19 Q. Now, in that paragraph, it says,
20 Plaintiff asserts each of the policies as
21 authorized by ZF Batavia and Ford management. And
22 that seems inconsistent with what you've told me in
23 your deposition today. And so I just want to make
24 sure that I've got your testimony clear.

1 As you sit here today, you have no
2 reason to believe that Ford management was involved
3 in any of these policy changes; is that correct?

4 A. I don't know that Ford management was.
5 However, with Ford being part of the board, board
6 of -- you know the ZF board, I'm -- I would think
7 that these decisions would come from the board of
8 directors and I think Ford is part of that board of
9 directors.

10 Q. Okay. Other than through Ford's
11 involvement as a 49 percent shareholder and,
12 therefore, having members on the board of
13 directors, do you believe in any other way that
14 Ford was involved in any of these policy changes?

15 A. No.

16 Q. And do you know, as you sit here
17 today, whether these various policy changes that
18 you've testified about were reviewed by the board
19 of directors at all?

20 A. I don't know --

21 Q. Okay.

22 A. -- if they were.

23 Q. Okay.

24 A. I would assume that they were.

1 Q. Okay. But you don't know?

2 A. No.

3 Q. You haven't seen any minutes that
4 reflect that, haven't attended any board meetings
5 where those were discussed?

6 A. No.

7 Q. Now, I believe you testified earlier
8 with regard to overtime that you were told in
9 meetings that you'd be paid for overtime like you
10 had been at Ford. Is that a fair characterization
11 of your understanding as to the overtime, what was
12 said --

13 A. Yes, I think so.

14 Q. -- in -- do you remember who said
15 that?

16 A. It's -- it's in the summary.

17 Q. Of what -- that's -- it's in Exhibit
18 2?

19 A. Yes.

20 Q. Okay. Can you show me in Exhibit 2
21 what you're referring to?

22 A. Under salary, then it says authorized
23 overtime will be paid.

24 Q. And then is it your testimony you took

1 that to mean overtime would be just like it had
2 been at Ford?

3 A. We were told that our benefits would
4 be the same as -- as if we were working for Ford.

5 Q. Okay. Well, let's focus on overtime
6 first, if we can. Did anyone -- other than what
7 you read in Exhibit 2, did anyone specifically say
8 to you overtime will be paid just as it is at Ford?

9 A. Yeah.

10 Q. And who said that?

11 A. Hassan.

12 Q. And when did he say that, do you know?

13 A. In our discussions and -- and stuff
14 that he had with us and with me one on one.

15 Q. What specifically did Hassan say about
16 overtime?

17 A. That we would -- that I would be paid
18 for my overtime that I worked.

19 Q. Did he say anything other than you'll
20 be paid for your overtime that you work?

21 A. No, that was --

22 Q. Anyone other than Hassan say anything
23 to you about overtime?

24 A. I can't recall anyone else, others

1 saying that, other than it might have been
2 mentioned in the -- in the May meeting, but I
3 can't -- I can't recall that, if it really was or
4 not.

5 Q. Okay. What about the vacation, did
6 anyone ever say to you prior to the time you
7 accepted employment with ZF Batavia that you would
8 be allowed to purchase this additional week of
9 vacation?

10 A. That's -- that's also in the brochure.

11 Q. Okay. Other than what -- and I
12 understand that Exhibit 2 says what it says,
13 although we may not agree on that language.
14 But I want to ask you in terms of anybody actually
15 saying to you -- not showing you Exhibit 2, but
16 actually having a conversation with you about
17 purchasing that fifth week -- or I'm sorry -- that
18 additional week prior to the time that you accepted
19 employment with ZF Batavia, did that ever happen?

20 A. Well, I know Karl Kehr mentioned it in
21 the -- in the May 27th meeting that we could
22 purchase an extra week of vacation.

23 Q. Do you remember specifically what
24 Mr. Kehr said?

1 A. Not specifically, no.

2 Q. Did he say whether that was something
3 that applied to all employees?

4 A. I really don't remember. I just
5 remember him saying that we could purchase up to a
6 week of vacation.

7 Q. Did he say anything about how much
8 total weeks of vacation you could have?

9 A. He said as a ZF employee, you could
10 have up -- total of four weeks. A new -- new hire
11 would have a total of four weeks.

12 Q. Did he communicate anything as to what
13 the transitional employees could have?

14 A. If you had less than four weeks, you
15 could earn up to four weeks of vacation.

16 Q. And what about if you already had five
17 weeks?

18 A. That we would retain that fifth week.

19 Q. He said that?

20 A. Yes.

21 Q. At that time, were you a five week --

22 A. Yes.

23 Q. And did he say anything about if you
24 already have five weeks, you can also purchase an

1 additional week?

2 A. I don't remember him saying that,
3 but -- I really don't remember him saying that --

4 Q. Okay.

5 A. -- specifically.

6 Q. Okay. Other than Mr. Kehr, did anyone
7 else have any conversations prior to the time you
8 accepted employment with ZF Batavia about this,
9 purchasing an additional week of vacation?

10 A. No, not -- no.

11 Q. That didn't come up in your
12 conversations with Hassan?

13 A. No.

14 Q. Now, what about AIP, were there ever
15 any discussions with anyone from Ford or ZF prior
16 to the time you accepted employment with ZF Batavia
17 about how much the AIP would be?

18 A. No.

19 Q. Now, were you ever promised that you'd
20 get a specific dollar number?

21 A. No.

22 Q. Or that you'd get a specific
23 percentage?

24 A. No.

1 Q. Was there ever any discussions about
2 comparing your AIP to what the AIP of new hires
3 would be?

4 A. I don't remember any discussion.

5 Q. No one ever committed to you that you
6 would get more -- higher percentage than the new
7 hires would?

8 A. No.

9 Q. Okay. During your discussions with
10 Hassan, did AIP come up during those discussions?

11 A. I don't recall that. I would think
12 that it had, but I -- I don't recall.

13 Q. Well, do you remember discussing
14 anything with Hassan, other than -- I believe you
15 testified earlier when he came out, he gave you the
16 letter and he talked briefly about salary and about
17 compensation and about what the job was going to
18 be. Do you remember discussing specifically with
19 Hassan any specific benefits or the bonus?

20 A. No.

21 Q. Okay.

22 A. No.

23 Q. Now, with respect to bereavement
24 leave, other than what you may have read in Exhibit

1 2, prior to the time that you accepted employment
2 with ZF Batavia, did you have any conversations
3 with anybody, either in meetings or in one on ones
4 about what the bereavement leave policy was going
5 to be?

6 A. Can you --

7 Q. Sure.

8 A. -- rephrase that?

9 Q. I understand Exhibit 2 has certain
10 information in it about bereavement leave. My
11 question is, if either in the employee meetings
12 that you attended or in the one on ones that you
13 testified you had with Hassan, was there any
14 discussion on bereavement?

15 A. The only thing I can recall is -- is
16 that -- was the -- that our -- biggest thing was --
17 was told that we would have the same benefits that
18 we had enjoyed with Ford.

19 Q. And were there any --

20 A. Whether -- I don't know if it
21 specifically -- if anyone said specifically about
22 bereavement or not.

23 Q. Okay. Now, you understood, though,
24 that there were going to be some changes in the

1 benefits, didn't you?

2 A. Yes.

3 Q. Okay. And so you -- when you heard
4 the statement that it would be the same as it was
5 at Ford, you knew that wasn't necessarily accurate
6 because there were going to be some differences?

7 A. Correct. But they would be comparable
8 to what we had with Ford, as far as our medical and
9 our dental and items of that nature.

10 Q. Now, did anyone communicate to you
11 that your benefits would never change at any time
12 during your employment with ZF Batavia?

13 A. No.

14 Q. In fact, that would have been an
15 unrealistic expectation, wouldn't it?

16 A. Yes.

17 Q. Because certainly at Ford, your
18 benefits were subject to change --

19 A. Yes.

20 Q. -- weren't they? You testified that
21 the first conversation you remembered with Hassan
22 about the joint venture was shortly after the
23 announcement in October '98 time frame. At that
24 time, at the time of that conversation, there was

1 still a lot of uncertainty as to certainly what the
2 benefits were going to be at the joint venture,
3 right?

4 A. Yes.

5 Q. And I take it Hassan didn't make any
6 representations at that time about what the
7 benefits would be at ZF Batavia, did he?

8 A. Correct.

9 Q. I noticed in your offer letter, which
10 is Exhibit 119, in the second-to-the-last paragraph
11 it says essentially if you're going to accept the
12 offer return -- sign this and return it to salaried
13 personnel by June 14th.

14 But I note you didn't sign it until
15 June 21st. I just wondered, was there -- did
16 someone give you an extension or do you know what
17 the difference for the discrepancy between June
18 14th and June 21st is?

19 A. I -- no.

20 Q. Okay. You didn't go to Hassan or
21 salaried personnel or anyone and say, I need more
22 time to make this decision?

23 A. I'm -- I'm not really sure when it was
24 that they gave me this letter and I'm sure that if

1 they said return it to personnel by the 14th, that
2 I definitely didn't return it on the 14th, so --

3 Q. Okay. And I was just curious if you
4 knew what had happened -- if something had happened
5 to cause you not to be --

6 A. And he probably did come to me, said,
7 Sir, do you want to accept or not and I said, I
8 need more -- probably told him that I did need more
9 time to think about it.

10 Q. Okay. And I take it this nine-hour
11 rule that you've testified was put in sometime
12 after you started at ZF Batavia, I take it there
13 wasn't any discussion of that nine-hour rule prior
14 to the time that you accepted employment with ZF
15 Batavia?

16 A. Correct.

17 Q. And I thought you testified earlier
18 that with regard to casual time at Ford, that was
19 strictly your choice, as to whether you came in
20 early or stayed late. Did I understand that
21 correctly?

22 A. Well, it wasn't really my -- it's not
23 really my choice. It was sort of expected, I
24 guess. You were expected to give at least -- you

1 know, 15 minutes -- at least 15 minutes before and
2 after the shift.

3 Q. How is that different, if it is, than,
4 I guess, the expectation at ZF Batavia now?

5 A. It just, to me -- well, I guess -- you
6 know, when you did work the extra hour, if you did
7 work an extra hour with Ford, you did get paid for
8 it. But now -- now it's saying that you've got to
9 put in the extra hour. But then to get overtime,
10 you got to put in another hour, which means you
11 work 10 hours and you only get nine hours' pay.

12 Q. But at Ford, if you worked 10 hours,
13 you didn't always get paid overtime, did you?

14 A. Yes. If I worked 10 hours, I got paid
15 10 hours.

16 Q. I -- I thought you said that there
17 were -- lots of times I thought you said that you
18 didn't turn in the time, so you didn't get paid
19 overtime; is that right or not?

20 A. There was a few times, yes.

21 Q. Okay.

22 A. But that was my choice.

23 Q. That was your choice, okay. Now, at
24 Ford, they had various policies and procedures that

1 you were required to follow as an employee,
2 correct?

3 A. Say that again.

4 Q. Ford had policies and procedures that
5 employees like yourself were required to follow,
6 right?

7 A. Yeah.

8 Q. And you understood that, just because
9 you were changing employers, that didn't mean you
10 wouldn't be required to follow policies and
11 procedures at your new place of employment, right?

12 A. Right.

13 Q. You received, I noticed in Exhibit
14 119, a transition bonus of \$17,000. Do you know
15 what that transition bonus was for?

16 A. Truthfully?

17 Q. Yes, sir.

18 A. No.

19 Q. Did anyone ever communicate to you
20 what the transition bonus was for that you can
21 recall?

22 A. Really I -- I just -- I -- I really
23 don't know what it was for.

24 Q. Okay. Someone offers \$17,000, you

1 don't ask questions.

2 A. I mean, I just thought it was just for
3 transitioning from Ford to ZF, but --

4 Q. Okay. Well, it says in -- in the
5 letter, it says, "This bonus is designed to address
6 any monetary differences between Ford benefits and
7 ZF Batavia's new plan." Is that what you thought
8 it was for?

9 A. I really thought it was to help offset
10 any -- any bonuses that -- from Ford that I might
11 have lost over the next three years or something.
12 That that's what I really, in my mind, what I
13 thought it was for.

14 Q. Okay. And you've been paid that full
15 \$17,000, right?

16 A. Yes.

17 Q. I take it that when you had these
18 one-on-one conversations with Hassan about what
19 things were going to be like at ZF Batavia, you
20 believed what he was saying, right?

21 A. Yes.

22 Q. You didn't have any reason to believe
23 he was being untruthful with you?

24 A. Correct.

1 Q. And as you sit here today, do you have
2 any reason to believe that Hassan was being
3 untruthful with you?

4 A. No.

5 Q. Do you have any reason to believe that
6 he knew, down the road, ZF Batavia was going to
7 make certain policy changes?

8 A. No.

9 Q. Who do you currently report to,
10 Mr. Newsome?

11 A. Gary McGee.

12 Q. What is Mr. McGee's job?

13 A. Industrial engineering supervisor.

14 Q. Is he a ZF Batavia employee?

15 A. Yes.

16 Q. Do you report to anyone from Ford?

17 A. No. He's a retired Ford person.

18 Q. Since the time that you left Ford and
19 went to work for ZF Batavia, your wages have gone
20 up every year, haven't they?

21 A. Yes.

22 Q. Do you know an employee by the name of
23 Eddie Adams?

24 A. Yes.

1 Q. Have you had any conversations with
2 Mr. Adams about this lawsuit?

3 A. No.

4 Q. Or any conversation with Mr. Adams
5 about the promises that you believe weren't kept?

6 A. No.

7 Q. Mr. Adams has been listed by your
8 attorneys as a possible witness in this case. Do
9 you have any knowledge as to why Mr. Adams might be
10 a witness in this case?

11 A. No.

12 Q. With respect to the various promises
13 that you've testified ZF Batavia has not kept, have
14 you made any complaints to anyone from Ford about
15 those issues?

16 A. No.

17 Q. And why is that?

18 A. I don't know.

19 Q. Have you complained to anyone from ZF
20 Batavia about it?

21 A. No.

22 MR. VANWAY: Mr. Newsome, I don't
23 think I have any further questions. Thank you,
24 sir.

1 MR. HUNTER: Just a couple follow-up
2 questions.

3 EXAMINATION

4 BY MR. HUNTER:

5 Q. Mr. Newsome, in the progression of
6 employment that you described for me earlier, you
7 have changed positions since you've been at ZF
8 Batavia?

9 A. Yes.

10 Q. Were those positions promotions?

11 A. No.

12 Q. Just a lateral move --

13 A. Yes.

14 Q. -- in terms of responsibility?

15 A. Yes.

16 Q. And you currently are engaged to work
17 with the CVT program, correct?

18 A. Well, yeah. Since I -- since I'm the
19 only one in the plant that deal with the building
20 materials, yes, I do handle build materials for
21 CVT.

22 MR. HUNTER: I don't believe I have
23 anything else.

24 MR. SIMON: I think we're done. We

1 will not waive signature.

2 (Deposition concluded at 1:19 p.m.)

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Randall Newsome

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1 C E R T I F I C A T E

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3 STATE OF OHIO :

4 : SS

5 COUNTY OF HAMILTON :

6

7 I, Susan M. Barhorst, a Notary Public in
8 and for the State of Ohio, duly commissioned and
9 qualified, do hereby certify that prior to the
10 giving of this deposition the within-named RANDALL
11 NEWSOME was by me first duly sworn to testify the
12 truth, the whole truth, and nothing but the truth;
13 that the foregoing pages constitute a true,
14 correct, and complete transcript of the testimony
15 of said deponent, which was recorded in stenotypy
16 by me, and on the 24th day of October 2003 was
17 submitted to counsel for deponent's signature.

18 I further certify the within deposition was
19 duly taken before me at the time and place stated,
20 pursuant to the Federal Rules of Civil Procedure;
21 that I am not counsel, attorney, relative or
22 employee of any of the parties hereto, or their
23 counsel, or financially or in any way interested in
24 the within action, and that I was at the time of

1 taking said deposition a Notary Public in and for
2 the State of Ohio.

3 IN WITNESS WHEREOF, I have hereunto set my
4 hand and notarial seal at Cincinnati, Ohio, this
5 24th day of October 2003.

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Susan M. Barhorst, Notary Public
in and for the State of Ohio.
My commission expires
February 18, 2004

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